

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,
v.

Case No. 10-cr-20667
Hon. Matthew F. Leitman

D1, JOHN COOK,

Defendant.

**ORDER DENYING DEFENDANT’S MOTION
TO APPOINT COUNSEL WITHOUT PREJUDICE (ECF No. 426)**

Defendant John Cook is federal prisoner who is currently incarcerated at the FCI Bennettsville in Bennettsville, South Carolina. On January 6, 2021, Cook sent a letter to this Court in which he asked the Court to appoint him counsel “to help [him] with [his] compassionate release motion.” (Ltr., ECF No. 426.)

The Court will construe Cook’s letter as a motion for the appointment of counsel, and the Court will **DENY** the motion without prejudice. Cook has not provided the Court any basis to determine whether it is appropriate to appoint counsel at this time. For instance, a defendant may not file a motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A) until “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is

earlier.” The exhaustion requirement in Section 3582(c)(1)(A) is “mandatory” and is not subject to any “judge-made exceptions.” *United States v. Alam*, 960 F.3d 831, 833–36 (6th Cir. 2020). But Cook has not given the Court enough information to determine whether he has satisfied this exhaustion requirement. Nor has he provided the Court any basis to determine whether he otherwise qualifies for compassionate release.

For all of these reasons, Cook’s motion is **DENIED WITHOUT PREJUDICE**. However, Cook may file a renewed motion for the appointment of counsel and/or a motion for compassionate release. In any such motion, Cook shall inform the Court whether he has submitted a written request for compassionate release to the warden at FCI Bennettsville. If Cook has submitted a written request for compassionate release to the warden, then Cook shall also inform the Court of the date on which he submitted the request, whether the warden responded to the request, and the date of the warden’s response (if any). Finally, Cook shall inform the Court why he believes that he qualifies for compassionate release and why he believes it is necessary to appoint him counsel.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: January 7, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 7, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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